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United States  
Circuit Court of Appeals  
For the Ninth Circuit.

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LEE HOW PING.

Appellant,

vs.

JOHN D. NAGLE, Commissioner of Immigration,  
Port of San Francisco.

Appellee.

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Transcript of Record.

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Upon Appeal from the United States District Court for the  
Northern District of California, Southern Division.

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FILED

NOV 19 1929

PAUL P. O'BRIEN,  
CLERK



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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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NAMES AND ADDRESSES OF ATTORNEYS  
OF RECORD.

GEORGE A. McGOWAN, Esq., 550 Montgomery  
St., San Francisco, Cal.,  
Attorney for Appellant.

UNITED STATES ATTORNEY, San Francisco,  
Cal.,  
Attorney for Respondent.

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In the Southern Division of the United States Dis-  
trict Court, in and for the Northern District of  
California, Second Division.

No. 20,111-L.

In the Matter of LEE HOW PINK, Son of a  
Native, on Habeas Corpus; 28103/4-13 ex  
SS. "Pr. GRANT," June 26, 1929.

PETITION FOR WRIT OF HABEAS CORPUS.

To the Honorable United States District Judge,  
Now Presiding in the United States District  
Court, in and for the Northern District of Cali-  
fornia, Second Division:

It is respectively shown by the petition of the  
undersigned, that Lee How Ping, hereafter in this  
petition referred to as the "detained," is unlaw-  
fully imprisoned, detained, confined and restrained  
of his liberty by John D. Nagle, Commissioner of  
Immigration for the Port of San Francisco at **the**

Immigration Station at Angel Island, County of Marin, State of California, Northern District and Southern Division thereof; and that the imprisonment, detention, confinement and restraint are illegal and that illegality thereof consists in this, to wit:

That it is claimed by the said Commissioner that the said detained is a Chinese person and alien not subject or entitled to admission into the U. S. under terms and provisions of the Acts of Congress of May 5, 1882; July 5, 1884; Nov. 3, 1893, and April 29, 1902; as amended and re-enacted by Section 5 of the Deficiency Act of April 7, 1904, which said acts are commonly known and referred to as the Chinese Exclusion or Restriction Acts; and the Immigration Act of 1924; and that he, the said Commissioner intends to deport the said detained away from and out of the United States to the Republic of China, by direction of the Secretary of Labor, who has just dismissed the appeal in said case. [1\*]

That the Commissioner claims that the said detained arrived at the port of San Francisco on or about the 26th day of June, 1929, and thereupon made application to enter the U. S. as a son of a native thereof, and that the application of the said retained was denied by the Commissioner of Immigration and a Board of Special Inquiry, and that an appeal was thereupon taken from the excluding decision of the said Commissioner of Im-

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\*Page-number appearing at the foot of page of original certified Transcript of Record.



migration and the said Board of Special Inquiry to the Secretary of Labor and that the said Secretary thereafter dismissed the said appeal; that it is claimed by the said Commissioner that in all of the proceedings had herein the said detained was accorded a full and fair hearing; that the action of the said Commissioner and the said Board of Special Inquiry and the said Secretary was taken and made by them in the proper exercise of the discretion committed to them by the statute, and in accordance with the regulations promulgated under the authority contained in said statutes.

But, on the contrary, your petitioner alleges, upon his information and belief, that the hearing and proceedings had herein, and of the said Board of Special Inquiry, and the action of the said Secretary was and is in excess of the authority committed to them by the said rules and regulations and by said statutes, and that the denial of the said application of the said detained to enter the U. S. as the son of a native-born citizen thereof was and is an abuse of the authority committed to them by the said statutes in each of the particulars hereinafter set forth, and that there is not sufficient evidence to sustain the said adverse action of the said Board of Special Inquiry and the said Secretary of Labor in denying the application in said case:

#### I.

Your petitioner alleges, upon his information and belief, that the evidence presented before the said Commissioner, and the said [2] Board of

Special Inquiry, and the said Secretary, upon application of the said detained to enter the United States; showing that the father of the said detained, Lee On, was a resident of the Sar Hing Gong Village, Sun Ning District, China; that the applicant's father, Lee On, his P. L. brother, Lee Fong, together with their prior landing files, and the applicant were all examined covering a wide and multitude of various matters; that the testimony of the said people, before the immigration authorities, shows that they were interrogated substantially as to every conceivable thing that occurred, or would have been likely to have occurred during their lives, or come within their observation, of which each could have been expected to have any knowledge; that the father has mentioned this applicant as his son upon every occasion when testifying before the Immigration authorities during many years last past, giving for him the same name and age consistent with that now given, and he was likewise mentioned by his prior landed brother when testifying before the said Immigration authorities, giving for him the same name and age consistent with that now given; which said evidence is now hereby referred to with the same force and effect as if set forth in full herein, and was of such a conclusive kind and character establishing the American nativity of the father of the said detained, and hence showing the said detained to be the son of a native-born citizen of the United States, and which said evidence was of such a legal weight and sufficiency that it was an abuse

of discretion on the part of the said Commissioner and the said Board, and the said Secretary to deny the said detained the right of admission into the United States and instead thereof, to refuse to be guided by said evidence; and the said adverse action of the said Commissioner, the said Board, and the said Secretary was, your petitioner alleges, upon his information and belief, arrived at and was done in denying the said detained the fair hearing and consideration [3] of his case to which he was entitled. Said action was done in excess of the discretion committed to the said Secretary and the said Board, and to the said Commissioner of Immigration, and your petitioner alleges upon his information and belief, that the said action of the Secretary and the said Commissioner and the said Board was influenced against the said detained and against his witnesses solely because of his being of the Chinese race, and is seeking admission into the United States upon the ground of being a citizen thereof. That your petitioner is unable to present or file herewith a copy of the said Immigration record.

It is conceded by the said Board of Special Inquiry that the said father, your petitioner herein, Lee On, and his wife and other children are now domiciled within the United States; it is admitted that he was in China at a time to make possible his paternity of the applicant; it is further admitted that upon his return from this trip during June, 1915, he gave the birth date for his second son in exact agreement with that now claimed for

this applicant; it is further admitted that there is a marked physical resemblance between the applicant and the said detained and your petitioner, his father, Lee On, and that the demeanor of all the witnesses was splendid; and that, notwithstanding this, there is no evidence contained in said record sufficient to justify the immigration officers in setting aside and disregarding and holding as naught, the evidence upon behalf of the said detained.

Your affiant not having the record in his possession for the *enlightment* of the Court, he hereunto annexes a copy of the brief filed by H. H. North, of the Washington Bar, which is now part and partial of the said Immigration file, as Exhibit "A." The Immigration record is not yet open to our review, but if the same is so open to our review before this petition is filed, it will be filed herewith as Exhibit "B"; if not the same will be filed hereafter. Your affiant will require a report of the Board of Review at Washington and file it later in connection with the petition; same not now being in the jurisdiction of this court. [4]

It is conceded that the applicant speaks the dialect of the village from which he comes in China, and that his physical development is such as a person of his age should have.

That it is the intention of the said Commissioner of Immigration to deport the detained out of the United States and away from the land of which he is a citizen by the SS. "Pres. Johnson," sailing from this port on the 4th day of October, 1929, at the hour of 4:00 P. M., and unless this Court inter-

venes to prevent said deportation the said detained will be deprived of residence within the land of his citizenship.

That the said detained is in detention at the Immigration Station in Marin County, at Angel Island, and cannot for said reason verify said petition upon his own behalf; that the said petition is verified by your petitioner herein, at the request of the said detained, and as his next friend, upon his behalf and in his name.

WHEREFORE, your petitioner prays that a writ of habeas corpus issue herein as prayed for, directed to the said Commissioner, commanding and directing him to hold the body of the said detained within the jurisdiction of this court and to present the body of the said detained before this court at a time and place to be specified in said order, together with the time and cause of his detention, so that the same may be inquired into to the end that the said detained may be restored to his liberty and go hence without day.

Dated at San Francisco, Calif., October 3d, 1929.

LEE ON,  
Petitioner.

GEO. A. MCGOWAN,  
Attorney for Detained and Petitioner Herein.

United States of America,  
State of California,  
City and County of San Francisco,—ss.

The undersigned, being first duly sworn, deposes and says:

That the affiant herein is the petitioner in the foregoing petition; that the same has been read and explained to him and he knows the contents thereof; that the same is true of his own knowledge except as to those matters which are therein stated on his information and belief; and as to those matters he believes to be true.

LEE ON,  
Petitioner.

Subscribed and sworn to before me this 3d day of October, 1929.

[Seal] JOHN F. BURNS,  
Notary Public, in and for the City and County of  
San Francisco, State of California. [6]

### EXHIBIT "A."

In the Department of Labor, Bureau of Immigration.

MANIFEST No. 28103/4-13.

In Re: Application of LEE HOW PING, Son of  
a Native.

BRIEF ON BEHALF OF APPLICANT.

Applicant, a Chinese boy of less than 15 years of

age, born in China, seeks landing as the son of LEE ON, a native citizen of the United States of America, of the Chinese race.

It is admitted that the father is a native citizen. It is admitted that he has made three trips to China and that each time he has been admitted as a citizen. It is admitted that he and his wife and other children are now domiciled in the United States. It is admitted that he was in China at a time to make his paternity of the applicant possible. It is further admitted that upon his return from this trip during June, 1915, he gave the name and birth-date for his second son in agreement with that claimed now for this applicant and it is admitted by the entire Board of Special Inquiry that there is a marked physical resemblance between applicant and his father, LEE ON. Further, the uncontradicted records of the Immigration Service show as follows:

That applicant's paternal grandmother, father, brother, sister, stepmother and two half-brothers and one half-sister have had their right to legal residence here favorably determined by the United States authorities at various and sundry times and that there is nothing in the records tending to show any of them other than creditable witnesses.

That on examination LEE ON, the father, claimed applicant as his son in June, 1915, December, 1920, January, 1921, November, 1922, April and November, 1928, and at the present hearing; applicant's uncle, LEE POY, also a citizen of the United States of America, testified in December,

1927, that LEE HO SING is the second son of his brother, LEE ON, LEE POY'S son, LEE SING, gave similar testimony in November, 1928; LEE ON'S eldest son, LEE FONG, claimed applicant as his brother in November, 1922, and claims him now; Lee On's wife, Wong Shee, during November, 1922, and during April, 1928, testified that Lee How Ping was her husband's second son by his previous marriage, and in April, 1928, a returning Chinese merchant from the same town in China, Wong Suey Quong, by name, testified that he had met Lee How Ping, son of Lee On, and knew him as such, at his home town, Soo Hing Gong Village, China.

Certainly this is an unusual and most convincing record.

No attempt was made to show that any of the witnesses were of bad character or that any of them had made at other times statements inconsistent with the present testimony. (C. C. P. 2052.) On the other hand, the Board expressly states on page 30 of record: "The demeanor of the witnesses while testifying was satisfactory."

The direct evidence of several witnesses who are entitled to full credit has been produced. (C. C. P. 1844.)

They are presumed to speak the truth and there is nothing whatever in the record to overcome that presumption (C. C. P. 1847).

None but a material allegation need be proved and the only material matter is the paternity of applicant. (C. C. P. 1867.) [7]



Inquiry into collateral facts has been indulged in to an extreme degree and every disagreement, no matter on how immaterial a subject, has been seized as a pretext for denial of the main issue. (C. C. P. 1868.)

Brother Lee Fong was asked how many baskets were used at marketing, where he had his hair cut, did he use a razor, a strop or shaving cream, did he have a soap brush, did he use powder after shaving, and where did he keep his shaving appliances. And applicant was asked such questions as: "How often does your brother shave?" "Did you ever see him with a growth of whiskers for a day or two?" Q. "This questioning you have just been taken over is intimate with your home life in China. Now, why don't you know something about it?" To which applicant very justly answered: "I thought the matter of shaving was of no importance so I never paid any attention to it."

Also, Q. "Who installed the tile floors in that house?" and "Do you know where they came from?"

And the brother, Lee Fong, was asked, "You stated yesterday that you visited the graves of your ancestors on two occasions while you were last in China. When did you make your second visit to the graves."

Gross attempts were made to mislead the witnesses such as the following to the brother, Lee Fong: "Has no one ever advised him (the applicant) of his close association with you when a small boy? A. I do not know if anybody ever ad-

vised him or not. Q. Such an event common between you, why would you not mention it? A. No, because I did not think it was important. Q. The question of its importance in that you and he claim to be brothers and conversations brothers would have related to incidents at school." Was such an examination ever permitted outside of a police court?

#### ANALYZE ALLEGED DISCREPANCIES.

When this boy of less than fifteen years of age was first brought before the examining board after being kept in confinement from June 26 to August 15, 1929, the record shows that he was put at ease in the following manner: (See page 1 of record.) Applicant. Admonished that if at any time he fails to understand the interpreter to immediately so state; also advised as to the nature of and the penalty for the crime of perjury.

Applicant and the witnesses were examined at length and in great detail in regard to the occupants of various houses in the village and diagrams were drawn by applicant and his brother which are remarkable for their accuracy. (Exhibit "B.")

Judge Rudkin said in the recent decision in the case of Wong Tsick Wye et al. vs. Nagle, etc., U. S. C. C. of A., 9th District, 33 (2d) Fed. 226, June 24, 1929, after setting forth in detail the discrepancies upon which the applicants had been denied a landing:

"It seems to us that whatever discrepancies are found in this testimony are unimportant,

considering the scope of the examination when compared with the innumerable particulars in which the witnesses are in full accord.

and quotes with approval the following decisions:

“We may say at the outstart that discrepancies in testimony, even as to collateral and immaterial matters, may be such as to raise a doubt as to the credibility of the witnesses and warrant exclusion; but this cannot be said of every discrepancy that may arise. We do not all observe the same things, or recall them in the same way, and an American citizen cannot be excluded, or denied the right of entry, because of immaterial and unimportant discrepancies in testimony covering a multitude of subjects. The purpose of the hearing is [8] to inquire into the citizenship of the applicant, not to develop discrepancies which may support an order of exclusion, regardless of the question of citizenship.”

In *Nagle vs. Wong Ngook Hong*, 27 F. (2d) 650, we said:

“Owing to the wide range of the examination of the several witnesses, repetition, and minute detail, the records are voluminous. Certain discrepancies are relied upon by the Commissioner, but we agree with the lower court that they are either only apparent or insignificant. No group of witnesses, however intelligent, honest, and disinterested, could

submit to the interrogation to which these witnesses were subject without developing some discrepancies.”

Again, in Nagle vs. Dong Ming, 26 F. (2d) 438,  
we said:

“But it must be borne in mind that mere discrepancies do not necessarily discredit testimony. It is sometimes urged upon us that the testimony is impeached by its discrepancies, and sometimes by its complete accord. Both propositions are valid. But to be so, and to escape the charge of inconsistency, they must be understood in the light of the reason upon which they rest, and applied only within the range of such reason; otherwise, all testimony would be self-impeaching.”

In Mason ex rel. Lee Wing You vs. Tillinghast, (C. C. A. ) 27 F. (2d) 580, the Court said:

“So proceeding, the immigration tribunals succeeded in developing some very slight discrepancies on matters purely collateral, on which they ground their finding that the relationship is not reasonably established. But this euphemistic phrase must not be allowed to disguise the real situation. There is here

no room for honest error. The family exists as the three witnesses described it, unless the record as a whole furnished some basis upon which reasonable, truth-seeking minds can ground a conclusion of fraud and perjury on the part of all three witnesses. There is no conflicting evidence, direct or indirect, on the question of relationship. As noted above, the three witnesses were in absolute agreement on the vital issue of relationship and as to who the family are. We assume that these tribunals are not bound by the rules of evidence applicable in a jury trial. But they are bound by the rules of reason and logic—by what is commonly referred to as common sense.”

See, also, *Fong Tan Jew ex rel. Chin Hong Fun vs. Tillinghast*, (C. C. A.) 24 F. (2d) 632.

“As said by this court in the *Go Lun* case, a reading of the entire record leaves not the slightest room for doubt that the relationship was fully established and that the appellants are citizens of the United States. A contrary conclusion is arbitrary and capricious, and without any support in the testimony. The judgment of the court below is therefore re-

versed, with directions to issue the writ of habeas corpus as prayed.”

Go Lun vs. Nagle, 22 F. (2d) 246.

The alleged discrepancies in this case are so trivial as not to warrant further comment; in fact, we are unable to find anything that can be called a conflict between the testimony of father and son, and we wonder that the board should so consider them.  
[9]

Counsel, who have in the past, as Government officers, examined hundreds of records in Chinese cases, are of the opinion there is no question whatever but that this is a meritorious case and one which should receive favorable action at the earliest possible moment. It is, in our opinion, an even stronger case than that of Wong Tsick Wye et al., above quoted as having been favorably decided in June last by the United States Circuit Court of Appeals here.

As a further evidence of our good faith and notwithstanding the fact the veracity of Lee On, the applicant's father, has not been attacked, we make an affirmative offering of an affidavit in support of said Lee On's honesty, and integrity, made by an American citizen who has known him for more than thirty years and since his boyhood. Mrs. Abadie has been a lifelong resident of Berkeley and is a woman of the highest repute.

Respectfully submitted,

(Sgd.) H. H. NORTH,  
Atty. for Applicant. [10]

EXHIBIT "B."

28102/4-13.

In the Matter of LEE HOW PING, Son of a  
Native.

SUMMARY.

8/17/29.

BY CHAIRMAN: This applicant is applying for admission as the son of LEE ON, native. LEE ON has made three trips to China and upon his return from each of these trips was re-admitted as a native. He departed on the essential trip making possible his paternity to a child of the age given for the present applicant, Oct. 1, 1913, and returned June 21, 1915, at which time he gave the name and birth date for his second son in agreement with that now claimed for this applicant. When the al. father returned from China on his last trip, Nov. 15, 1922, he was accompanied by his second wife, two daughters and an al. son, LEE FONG, all of whom were admitted Nov. 24, 1922.

Statements on relationship have been taken from the al. father, LEE FONG, and the applicant. It should be noted at this time that LEE FONG departed from this port Oct. 15, 1927, and returned June 26, 1929, in company with the applicant. It should also be noted that an al. paternal uncle of the applicant, LEE POY, departed for China on Jan. 6, 1928, and returned Oct. 3, 1928, in company with an al. son, LEE SING,

who was admitted Nov. 20, 1928. At the time of LEE FONG'S departure for China, Oct. 15, 1927, he was accompanied by his stepmother and two half brothers, LEE JING LEUNG, and GEORGE LEE. These latter persons returned to the U. S. April 5, 1928. The following discrepancies have developed:

When LEE FONG was an applicant for admission in 1922, LEE ON—the al. father testifying at that time, stated on page 2 that his son, LEE HO PANG (LEE HOW PANG, the applicant), was being taken care of by MAR SHEE, his brother, LEE POY'S wife; that she did not live in the same house with him but in the same village; that his son, LEE FONG, was attending school for five years at that time and that his son, LEE HO PANG, the applicant, started to attend school last year. LEE FONG testified on page 8 of that examination that his brother, the applicant, was living with his aunt, his uncle's wife, and on page 9, when asked, "What were you doing at home?" A. Attending school in the home village." Q. How long? A. Five years. Q. How long did your brother, LEE HO PANG, go to school? A. Two years including the present year.

The al. paternal uncle testifying on behalf of LEE SING (file 27285/5-27) stated on page 7 that the applicant in the present case, LEE HO PANG, lived and ate in his house until his brother and stepmother returned home in the 10th month of last year and then he returned to his own home where he lived with his brother, LEE FONG.



LEE SING, al. cousin of applicant, testifying in his own behalf, on page 15, file 27285/5-27, stated that his uncle, LEE ON'S first wife died in CR. 5 (1916), that LEE ON was married the second time to WONG SHEE, CR. 10 (1921), and when questioned regarding the present applicant stated that "He came to live with us right after his mother's death in CR. 5 (1916) \* \* \* \* then he returned to his own house when his father remarried in CR. 10 (1921)" and on page 18, LEE SING testified that the present applicant was attending school in the home village and that he attended school with him when he was smaller but he did not remember for how many years. [11]

In the present examination the al. father testified, on page 6, that the applicant was attending school in the home village about a year and nine months before the al. father left the SAR HING GONG Village to return to the U. S., and that the applicant started school at the age of eight; that his son, LEE FONG, and his nephew, LEE SING, also attended school with the applicant at that time. The al. father also stated that after he came to the U. S. in CR. 11 (1922) the applicant lived in the house of his brother, LEE POY, in the same village.

LEE FONG, the pl. brother, stated on page 11, that after his mother's death, he and the applicant lived in his uncle's house in the SAR HING GONG VILLAGE and that he slept in that house from the time of his mother's death up to the time his father last arrived in China (1922). He also stated on

page 9 that LEE SING attended school with him and the applicant, and on recall, page 24, stated that he and the applicant were attending school together before 1922, that they both lived in his uncle, LEE POY'S house, after his mother's death occupying the room on the small door side.

The applicant stated on page 16 that he started school at the age of eight and when questioned, "How many years did you and LEE FONG attend school together?" he answered, "I do not remember that I ever attended school with him." On page 17, he stated that he did not remember of ever having attended school with his cousin, LEE SING. The applicant stated on page 19 that after his mother's death he went to live with his uncle's wife, that he was living in her house when his father came home in CR. 10 (1921), that he does not remember where his brother, LEE FONG, was living at that time; that he does not remember his brother, LEE FONG, ever having lived in the same house with him before CR. 10 (1921); that he has no knowledge of his brother, LEE FONG, ever having lived in his uncle, LEE POY'S house, making the reply—"No, I do not remember anything about that at all."

On page 9, the al. brother in giving the hours of school while he and the applicant attended together stated—"We started to school at seven o'clock in the morning and returned home for breakfast about nine o'clock in the morning and after breakfast we returned to school and remained there until four o'clock in the afternoon. At four o'clock we re-

turned home for supper, after which we returned go school again and remained at school until seven o'clock in the evening."

The applicant giving the school hours, that they were from 8 A. M. to 4 P. M., that he returned home for breakfast a little after nine, that he returned home at four o'clock because school was out at that time, never returning to the school at any time after four o'clock in the afternoon.

The applicant and his al. brother LEE FONG, have submitted diagrams marked Exhibits "A" and "B" of the SAR HING GONG VILLAGE and the locations of the dwelling-houses and public building are in agreement. However, the following discrepancies have developed relative to the occupants of houses concerning which both the applicant and LEE FONG were questioned:

The applicant stated, page 20, and indicates same on his diagram, Exhibit ,," that LEE WAH NAI'S wife, two sons and one daughter lived in the 1st space, 2d row from the south, LEE WAH NAI having gone to a foreign country and that LEE WAH NAI did not live in that house while his brother, LEE FONG, was last in China. He stated on recall, page 25, when asked when LEE WAH NAI went abroad that as far as he knows he has never seen him and that he did not see LEE WAH NAI at the SAR HING GONG VILLAGE while LEE FONG was last in China.

LEE FONG stated and indicated on his diagram, Exhibit ,," that LEE WAH NAI himself, his wife, two sons and one daughter were living in the

1st space, 2d row from the south (page 11) and on recall stated on page 24 that LEE WAH NAI was living ~~relative~~ at the time he arrived home but died about a month afterwards, relative to the death of LEE WAI NAI the applicant states on page 25 and page 26 that no deaths occurred in the SAR HING GONG VILLAGE while his brother was last in China nor did anyone die in LEE WAH NAI'S house. [12]

The applicant stated on page 20 and indicated on Exhibit "B" the second house, third row, or the house in back of his was occupied by LEE YEN NAI'S wife and two sons while his brother ~~occu-  
pied~~ was last in China, that LEE YEN NAI had gone to a foreign country. He stated on page 25 that he did not know when LEE YEN NAI went abroad, that he did not see LEE YEN NAI in the SAR HING GONG VILLAGE while his brother, LEE FONG, was last in China.

LEE FONG testified and indicated on Exhibit "A" that LEE YEN NAI, his wife and sons occupied the second house, third row while he was last in China and on recall stated on page 24 that he saw LEE YEN NAI in the SAR HING GONG VILLAGE frequently while he was last in China, every day. When confronted with the fact that his testimony regarding LEE WAH NAI and LEE YEN NAI was in serious disagreement with the applicant, the p.l. brother—LEE FONG, stated on page 25, "I know that WAH NAI is dead. YEN NAI was there and I saw him often."

The demeanor of the witnesses while testifying was satisfactory. The members of the board have expressed their opinions on page 26 of the resemblance to be found between the al. father, the applicant and p.l. al. brother.

The discrepancies above enumerated are so great that they cast a grave doubt upon the claimed relationship in this case and after a careful consideration of all the testimony adduced it is my opinion that the burden of proof has not been sustained nor the claimed relationship reasonably established and I therefore move that the applicant be denied admission to the U. S. and deported to China, the country whence he came.

By Member LINWOOD.—I second the motion.

By Member MORRIS.—I concur.

[Endorsed]: Filed Oct. 4, 1929. Walter B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk.  
[13]

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[Title of Court and Cause.]

### ORDER TO SHOW CAUSE.

Good cause appearing therefor, and upon reading the verified petition on file herein:

IT IS HEREBY ORDERED that John D. Nagle, Commissioner of Immigration for the port of San Francisco, appear before this court on the 21st day of October, 1929, at the hour of 10:00 A. M. of said day, to show cause, if any he has, why a writ of habeas corpus should not issue herein, as

prayed for, and that a copy of this order be served upon the Commissioner, and copy of petition and order be served upon the U. S. Attorney for this District, his representative herein.

AND IT IS FURTHER ORDERED that the said John D. Nagle, Commissioner of Immigration, as aforesaid, or whoever, acting under the orders of the said Commissioner, or the Secretary of Labor, shall have the custody of the said Lee How Ping, or the master of any steamer upon which he may have been placed for deportation by the said Commissioner, are hereby ordered and directed to retain the said Lee How Ping within the jurisdiction of this court until its further order herein.

AND IT IS FURTHER ORDERED that the said John D. Nagle, Commissioner of Immigration, present at said time, the immigration records of the Department of Labor bearing upon said case, for the enlightenment of the Court and comply with Section 23 of Immigration Act of 1924.

Dated at San Francisco, October 4th, 1929.

HAROLD LOUDERBACK,  
U. S. District Judge.

[Endorsed]: Filed Oct. 4, 1929. [14]

[Title of Court and Cause.]

APPEARANCE OF RESPONDENT AND NOTICE OF FILING EXCERPTS OF TESTIMONY FROM THE ORIGINAL IMMIGRATION RECORD.

To the Petitioner in the Above-entitled Matter,  
and to Geo. A. McGowan, Esq., His Attorney:

PLEASE TAKE NOTICE that the respondent hereby appears in the above-entitled matter, and will upon the hearing on the order to show cause rely upon certain excerpts of testimony from the original immigration record additional to the portions of such records which are set out in the petition for a writ of habeas corpus herein, a copy of such additional excerpts being annexed hereto. Please examine same prior to the hearing on the order to show cause.

Dated:

GEO. J. HATFIELD,  
United States Attorney,  
(Attorney for Respondent.) [15]

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[Title of Court and Cause.]

RESPONDENT'S MEMORANDUM OF EXCERPTS OF TESTIMONY FROM THE ORIGINAL IMMIGRATION RECORD.

The witnesses herein are:

LEE HOW PING, the applicant, born August 16, 1914, never in the United States.

LEE ON, alleged father of the applicant, native of the United States, age 46, in China from December, 1908, to September, 1910, from October, 1913, to June, 1915, and from January, 1921, to November, 1922.

LEE FONG, alleged brother of the applicant, born April 18, 1911, first came to the United States November 15, 1922, and was back in China from October, 1927, to June, 1929.

Lack of satisfactory proof of relationship of the applicant to his alleged father is the ground for the exclusion decision of the executive department. We quote below, from the original immigration record, some of the conflicting testimony. [16]

### I.

LEE ON testified on August 15, 1929, as follows:

“Q. Describe your first wife.

A. GIN SHEE died in CR. 5-5 (June, 1916) at the SAR HENG GONG VILLAGE. S. N. D. China.” (Immig. Record 55701/444, p. 13.)

and on August 16, 1929, as follows:

“Q. Where did your son, LEE FONG, live after your wife, GIN SHEE died?

A. In his aunt's house, the wife of my elder brother.

By CHAIRMAN.—Q. Did this applicant live in the same house with LEE FONG at that time?

A. Yes.



Q. How old was this applicant when his mother died?

A. Two years old, Chinese reckoning.

Q. How old was this applicant when you returned to China on your last trip?

A. About eight years old.

Q. Then the applicant lived in the same house with your son, LEE FONG, for about six years, is that correct?

A. Yes, just about." (Id., p. 32.)

LEE FONG testified on August 16, 1929, as follows:

"Q. Where did you and this applicant live in the SAR GONG Village after your mother's death?

A. In my uncle's house in the SAR HING GONG Village.

Q. Did you continue to live in your uncle's house until you came to the U. S. in CR. 11 (1922)?

A. No, I slept at our house when my father returned home on his last trip. I slept in my uncle's house from the time of my mother's death up to the time of my father's arrival on his last trip." (Id., p. 21.)

and on August 17, 1929, as follows:

"Q. Did you and the applicant live together in your uncle, LEE POY'S house after your mother's death? A. Yes.

Q. Where did you and the applicant sleep in LEE POY'S house?

A. We lived in a room on the small door side." (Id., p. 34.) [17]

LEE HOW PING testified on August 16, 1929, as follows:

"Q. Where did you and your brother LEE FONG live in the SAR HING GONG Village after your mother's death?

A. I went to live with my uncle's wife. I do not remember about my brother, LEE FONG.

Q. Where were you living when your father came home in CR. -10 (1921)?

A. In my aunt's house.

Q. Where was your brother, LEE FONG, living at that time? A. I do not remember.

Q. Do you remember your brother, LEE FONG, and yourself living in the same house?

A. No, I do not remember that.

\* \* \* Q. Have you any knowledge of your brother, LEE FONG, ever having lived in your uncle's LEE POY'S house?

A. No, I do not remember anything about that at all." (Id., pp. 29-30.)

and on August 17, 1929, as follows:

"Q. Did you ever hear that your brother, LEE FONG, ever lived in your uncle Lee Poy's house with you?

A. I do not remember and I have never been told of it." (Id., p. 36.)

## II.

LEE ON testified on November 24, 1922, as follows:

“Q. When did you return from your last trip to China?

A. On the last ‘President Lincoln’ (Nov. 15, 1922). (Immig. Record 28103/4-12, p. 19.)

Q. Did your son, Lee Fong, go to school at any time? A. Yes.

Q. How long has he been in school?

A. Five years.

Q. Has your son, LEE HO PONG, ever been in school?

A. Yes.

Q. How many years?

A. He started to go to school last year.”

(Id., p. 17.)

and on August 15, 1929, as follows:

“Q. What was this applicant doing in China when you were last there?

A. Attending school in the home village.

Q. At what age did the applicant start to attend school? A. Eight. [18]

Q. How long had he been attending school before you left the SAR HING GONG Village to return to the U. S.?

A. A little over a year. About a year and nine months.

Q. Was your son, LEE FONG, also attending school with the applicant at that time?

A. Yes.

Q. Was your nephew, LEE SING, attending school with LEE FONG and the applicant at that time?

A. Yes. (Immig. Record 55701/444, p. 16.)

LEE FONG testified on November 24, 1922, as follows:

“Q. What were you doing at home?

A. Attending school in the home village.

Q. How long?

A. Five years.

Q. How long did your brother, Lee Ho Pang, go to school?

A. Two years, including the present year.”  
(Immig. Record 28103/4-12, p. 11.)

and on August 16, 1929, as follows:

“Q. At what age did this applicant start school?

A. At the age of eight.

Q. How old were you when you started school?

A. Eight years old.

Q. How many years did you and this applicant attend school together?

A. One or two years. (Immig. Record 55701/444, pp. 18-19.)

Q. Does your uncle, LEE POY, have any children?

A. Three sons, no daughters.

Q. What are their names, ages and whereabouts?

A. LEE SING, aged 20, now in the U. S.

\* \* \*

Q. Did LEE SING attend school with you and the applicant?

A. Yes.” (Id., p. 19.)

and on August 17, 1929, as follows:

“Q. How old was this applicant when you first came to the U. S. in CR. 11 (1922)?

A. He was eight or nine years old.

Q. Had the applicant started to attend school before CR. 11 (1922)?

A. Yes.

Q. Were you and the applicant attending school together before CR. 11 (1922)?

A. Yes.” (Id., p. 34.)

On November 20, 1928, LEE SING who is claimed to be a cousin of the applicant, Lee How Ping, testified as follows: [19]

“Q. What was LEE HO PING doing in China, when you and your father last left there to come to this country?

A. He was attending school in the home village.

Q. Did you ever attend the home village school with your cousin, LEE HO PING?

A. Yes, when I was smaller.

Q. How many years did you and LEE HO PING attend the home village school together?

A. I don't remember for how many years.” (Immig. Record 27285/5-27, p. 26.)

LEE HOW PING testified on August 16, 1929, as follows:

“Q. At what age did you start school?

A. At the age of eight.

Q. How many years did you and LEE FONG attend school together?

A. I do not remember that I ever attended school with him.

Q. Do you remember ever having attended school with your cousin, LEE SING?

A. I do not remember that.

Q. How old were you when your brother, LEE FONG, first came to the U. S.?

A. Eight or nine years old.

Q. Did your brother, LEE FONG, attend school with you before he first came to the U. S.

A. No.

Q. What was LEE FONG doing before he first came to the U. S. in CR. 11 (1922).

A. I do not remember because it has been so long ago.

Q. In what year did you start to attend school?

A. Either CR. 9 or CR. 10 (1920 or 1921).

Q. How old was LEE FONG in CR. 11 (1922)?

A. About 12 or 13.

Q. Well, how is it you started to attend school in CR. 9 or 10 (1920 or 1921), when you were eight years old, and LEE FONG was 12 or 13 years old when he first came to the U. S. and you do not remember ever having attended school with LEE FONG?

A. I do not remember whether or not I ever attended school with my elder brother.

Q. According to the age you have given when you first started to attend school and the age LEE FONG has given for the time when he first started to attend school, you and LEE FONG must have attended school at the same time? If such is the fact, why do you not know about it?

A. I may have attended school with him, but I was then only a small boy and that is so long ago that I do not remember it.

Q. When did LEE FONG quit school?

A. I do not remember, I suppose he quit school [20] at the time he left for this country.

Q. How old were you when LEE FONG first came to the U. S.?

A. Eight or nine years old. \* \* \*

Q. What were the school hours in the SAR HING GONG Village?

A. From 8 A. M. to 4 P. M.

Q. What time did you return home for breakfast? A. A little after nine.

Q. Did you return to the school at any time after 4 o'clock in the afternoon?

A. No.

Q. Why did you return home at four o'clock?

A. School was out at that time,"

(Immig. Record 55701/444, pp. 26-27.)

### III.

LEE FONG testified on August 16, 1929, as follows:

“Q. How many trips have you made to China since you first came to the U. S. ? .

A. One trip only.

Q. Describe that trip.

A. Departed CR. 16-9 (Oct., 1927) and returned C. R. 18-5 (June, 1929). (Id., pp. 17-18.)

“Q. How large is the SAR HING GONG Village?

A. It has 12 dwellings and one schoolhouse.

\* \* \*

Q. Where is your father's house in the SAR HING GONG Village?

A. The first house, third row, from the head or south. (Id., p. 21.)

“Q. Who lives in the house on the first space, second row, from the south?

A. LEE WAH NAI (Lee Wah Nai).

Q. Name all the persons who were living in that house when you were last in China.

A. WAH NAI himself, his wife, two sons and one daughter.” (Id., p. 21.)

And on August 17, 1929, as follows:

“Q. Was LEE WAH NAI living in the 1st house, 2d row, from the south, when you were last in China?

A. He was living at the time I arrived home. He died about a month afterward.

Q. Why did you state that WAH NAI himself was living in that house when you were last in China,



A. Yes, he was living there when I first arrived." (Id., p. 34.) [21]

LEE HOW PING testified on August 16, 1929, as follows:

"Q. Who lives in the house in the 1st space, 2d row, from the south?

A. LEE WAH NAI.

Q. Name all the persons who were living in that house when your brother LEE FONG, was last in China?

A. His wife, two sons and one daughter, LEE WAH NAI having gone to a foreign country.

Q. Do you mean by that that LEE WAH NAI did not live in that house while your brother was last in China?

A. Yes. (Id., p. 30.)

and on August 17, 1929, as follows:

"Q. You stated yesterday that LEE WAH NAI, whose family occupies the 1st house, 2d row from the south, had gone abroad. When did LEE WAH NAI go abroad?

A. As far as I know I have never seen him. I only heard from his children that he is abroad.

Q. Your statement on this point does not agree with your al. brother's statement, LEE FONG.

A. I might have seen him in China but I was so young I may not remember.

Q. Did you see LEE WAH NAI at the SAR HING GONG Village while your brother LEE FONG was last in China?

A. No. (Id., p. 35.)

“Q. Were there any deaths in the SAR HING GONG Village while your brother, LEE FONG was last in China? A. No.

Q. (Indicating on Exhibit ‘B,’ LEE WAH NAI’S house.) Did anyone die in that house while your brother, LEE FONG, was last in China? A. No. \* \* \*

Q. Were there any funerals held in your village while your brother, LEE FONG, was last in China? A. No.

Q. If there had been anyone who died or any funerals held in your village would you know it? A. Yes.

Q. Did anyone die and was buried at any time within your remembrance?

A. No, not since I could understand anything.” (Id., pp. 35, 36.) [22]

#### IV.

LEE FONG testified on August 16, 1929, as follows:

“Q. Who was living in the second house, third row, or the house in back of yours when you were last in China? A. LEE YEN NAI.

Q. Name all the persons who were living in that house during that time.

A. LEE YEN NAI, his wife, and his son.” (Id., p. 22.)

“Q. Was LEE YEN NAI living in the 2d house, 3d row, or the house in back of yours, when you were last in China? A. Yes.

Q. Did you see LEE YEN NAI in the SAR HING GONG Village frequently while you were last in China? A. Yes.

Q. Did you see him every day? A. Yes. (Id., p. 34.)

Q. Your testimony regarding LEE WAH NAI, LEE YEN NAI and LEE BOW NAI is in serious disagreement with your brother, the applicant.

A. I know that WAH NAI is dead, YEN NAI was there and I saw him often." (Id., p. 35.)

LEE HOW PING testified on August 16, 1929, as follows:

"Q. Name all the persons who were living in the 2d house, 3d row, or the house in back of yours, when your brother, LEE FONG, was last in China.

A. LEE YEN NAI'S wife and his two sons. LEE YEN NAI has gone to a foreign country. \* \* \*

Q. Do you mean by that that LEE YEN NAI did not live in that house while your brother, LEE FONG, was last in China?

A. Yes, that is what I meant." (Id., pp. 30, 31.)

and on August 17, 1929, as follows:

"Q. You also stated that LEE YEN NAI, whose family occupies the 2d house, 3d row, or the house in back of yours was living abroad. When did LEE YEN NAI go abroad?

A. I do not know.

Q. Did you see LEE YEN NAI in the SAR HING GONG Village while your brother, LEE FONG, was last in China?

A. No." (Id., p. 35.) [23]

V.

LEE FONG testified on August 16, 1929, as follows:

Q. What were the hours of school while you and the applicant attended together?

A. We started to school at seven o'clock in the morning and returned home for breakfast about nine o'clock in the morning and after breakfast we returned to school and remained there until four o'clock in the afternoon. At four o'clock we returned home for supper, after which we returned to school again and remained at school until seven o'clock in the evening. (Id., p. 19.)

LEE HOW PING testified on August 16, 1929, as follows:

“Q. What were the school hours in the SAR HING GONG Village?

A. From 8 A. M. to 4 P. M.

Q. What time did you return home for breakfast? A. A little after nine.

Q. Did you return to the school at any time after 4 o'clock in the afternoon? A. No.

Q. Why did you return home at four o'clock?

A. School was out at that time." (Id., p. 27.)

GEO. J. HATFIELD,  
United States Attorney,  
(Attorney for Respondent.)

[Endorsed]: Service of the within — by copy admitted this 14 day of Oct., 1929.

GEO. A. MCGOWAN,  
Attorney for Petitioner.

Filed Nov. 4, 1929. [24]

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At a stated term of the Southern Division of the United States District Court for the Northern District of California, held at the courtroom thereof, in the City and County of San Francisco, on Monday, the 4th day of November, in the year of our Lord one thousand nine hundred and twenty-nine. Present: The Honorable HAROLD LOUDERBACK, District Judge.

[Title of Cause.]

MINUTES OF COURT—NOVEMBER 4, 1929—  
ORDER SUBMITTING ORDER TO SHOW  
CAUSE.

This matter came on regularly this day for hearing on order to show cause as to the issuance of a writ of habeas corpus herein, whereupon the Court ordered that said matter be and the same is hereby submitted. [25]

At a stated term of the Southern Division of the United States District Court for the Northern District of California, held at the courtroom thereof, in the City and County of San Francisco, on Wednesday, the 6th day of November, in the year of our Lord one thousand nine hundred and twenty-nine. Present: The Honorable HAROLD LOUDERBACK, District Judge.

[Title of Cause.]

MINUTES OF COURT—NOVEMBER 6, 1929—  
ORDER DENYING PETITION FOR WRIT  
OF HABEAS CORPUS.

The petition for writ of habeas corpus, having been heretofore argued and submitted, and due consideration having been thereon had, IT IS ORDERED that the petition for writ of habeas corpus be and same is hereby denied. [26]

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[Title of Court and Cause.]

PETITION ON APPEAL.

To the Honorable HAROLD LOUDERBACK, Judge of the District Court of the United States, in and for the Northern District of California.

Comes now Geo. A. McGowan, Esq., attorney for the petitioners herein, and presents that they feel

aggrieved at the order and judgment made, given and entered in the above-entitled case, on the 6th day of November, 1929; wherein the petitioners were denied a writ of habeas corpus and the proceeding dismissed, and does hereby appeal from said order and judgment to the United States Circuit Court of Appeals for the Ninth Circuit, for the reason set forth in the assignment of errors filed herewith.

WHEREFORE, petitioners prays that their appeal be allowed and citation be issued, as provided by law, and that a transcript of record, proceedings and papers in the above-entitled cause, upon which the said order and judgment were based, duly authenticated, may be sent to the United States Circuit Court of Appeals for the Ninth Circuit, under the rules and said count and in accordance with the law in such cases made and provided.

Dated at San Francisco, California, this 8th day of Nov., 1929.

GEO. A. MCGOWAN,  
Attorney for Petitioner. [27]

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[Title of Court and Cause.]

#### ASSIGNMENT OF ERRORS.

Comes now Geo. A. McGowan, Esq., attorney for the petitioners herein, and the appellant in the appeal to the United States Circuit Court of Appeals for the Ninth Circuit, taken herein by the said attorney, and files the following assignment of errors, on which he will rely in the proceeding of the said

appeal in the above-entitled cause to the United States Circuit Court of Appeals for the Ninth Circuit from the order and judgment made, given and entered in this Honorable Court on the ninth day of April, 1929:

(1) That the Court erred in denying the petition for a writ of habeas corpus herein.

(2) That the Court erred in holding that it had no jurisdiction to issue a writ of habeas corpus, as prayed for in petition herein.

(3) That the Court erred in holding that the allegations contained in the petition herein for a writ of habeas corpus and the facts presented upon the issue made and joined herein were insufficient in law to justify the discharge of the petitioners from custody as prayed for in said petition.

(4) That the judgment made and entered herein is contrary to law.

(5) That the judgment made and entered herein is not supported by the evidence.

(6) That the judgment made and entered herein is contrary to the evidence.

WHEREFORE, the appellant prays that the judgment and order of the Southern Division of the United States District Court for the Northern District of California, Second Division, made and entered [28] herein in the office of the Clerk of the said court on the 6th day of November, 1929, denying the petition for a writ of habeas corpus as prayed for in this petition.



Dated at San Francisco, California, this 8th day of Nov., 1929.

GEO. A. MCGOWAN,  
Atty. for Petitioner and Appellant. [29]

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[Title of Court and Cause.]

ORDER ALLOWING PETITION FOR  
APPEAL.

On this 8th day of November, 1929, come the appellant herein, by their attorney, Geo. A. McGowan, Esq., and having previously filed herein, did present to this court his petition praying for the allowance of an appeal to the Circuit Court of Appeals for the Ninth Circuit, intending to be urged and prosecuted by him, and praying also that a transcript of the record and proceedings and papers upon which the judgment herein was rendered, duly authenticated, may be sent and transmitted to the Circuit Court of Appeals, and that such other and further proceedings may be had in the premises as may seem proper.

ON CONSIDERATION WHEREOF, and the filing of a cost bond of \$250.00, the Court allows the appeal hereby prayed for and orders execution and remand stayed pending the hearing of the said case in the said Circuit Court of Appeals for the Ninth Circuit; and it is further ordered that the respondent herein retain the said detained within the jurisdiction of this court and that he be not de-

ported, or permitted to depart, from the jurisdiction of this court, but remain and abide by whatever judgment may be finally rendered herein.

Dated at San Francisco, Calif., this 8th day of Nov., 1929.

HAROLD LOUDERBACK,  
United States District Judge. [30]

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[Title of Court and Cause.]

ORDER TRANSMITTING ORIGINAL EXHIBITS.

It appearing to the Court that the original immigration records appertaining to the application of Lee How Ping, the detained herein, to enter the United States were introduced evidence before and considered by the lower court in reaching its determination herein, and it appearing that said records are a necessary and proper exhibit for the determination of said case upon appeal to the Circuit Court of Appeals,—

IT IS NOW THEREFORE, ORDERED, upon motion of Geo. A. McGowan, Esq., attorney for the detained herein, that the said immigration records may be withdrawn from the office of the Clerk of this court, and filed by the Clerk of this court in the office of the Clerk of the United States Circuit Court of Appeals in and for the Ninth Judicial District, said withdrawal to be made at the time the

record on appeal herein is certified to by the Clerk of this court.

Dated at San Francisco, California, this 8th day of Nov., 1929.

HAROLD LOUDERBACK,  
U. S. District Judge. [31]

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[Title of Court and Cause.]

PRAECIPE FOR TRANSCRIPT ON APPEAL.

To the Clerk of Said Court:

Sir: Please make transcript of appeal in the above-entitled case, to be composed of the following papers, to wit:

1. Petition for writ.
2. Order to show cause.
3. Supplemental amendment to petition.
4. Extracts of testimony filed by U. S. Attorney.
5. Minute order introducing immigration record at the hearing in said matter.
6. Judgments and orders denying said petition and dismissing said petition.
7. Petition for appeal.
8. Assignment of errors.
9. Order allowing appeal.
10. Order transmitting original exhibits.
11. Citation on appeal.
12. Clerk's certificate.

Dated at S. F., Calif., Nov. 8th, 1929.

GEO. A. MCGOWAN,  
Attorney for Petitioner.

[Endorsed]: Service of the within petition for appeal by copy admitted this 8 day of Nov., 1929.

GEO. J. HATFIELD,

Attorney for \_\_\_\_\_.

Filed Nov. 8, 1929. [32]

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CERTIFICATE OF CLERK U. S. DISTRICT  
COURT TO TRANSCRIPT ON APPEAL.

I, Walter B. Maling, Clerk of the United States District Court, for the Northern District of California, do hereby certify that the foregoing 32 pages, numbered from 1 to 32, inclusive, contain a full, true and correct transcript of the records and proceedings in the Matter of Lee How Ping, on Habeas Corpus, No. 20,111, as the same now remain on file of record in this office.

I further certify that the cost for preparing and certifying the foregoing transcript on appeal in the sum of fourteen dollars and ninety cents (\$14.90) and that the same has been paid to me by the attorney for the appellant herein.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said District Court this 13th day of November, A. D. 1929.

[Seal]

WALTER B. MALING,

Clerk.

By C. M. Taylor,  
Deputy Clerk. [33]

CITATION ON APPEAL.

United States of America,—ss.

The President of the United States, to Hon. JOHN D. NAGLE, Commissioner of Immigration, and to GEO. A. HATFIELD, U. S. Attorney for the Northern District of California, GREETING:

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be holden at the City of San Francisco, in the State of California, within thirty days from the date hereof, pursuant to an order allowing an appeal, of record in the Clerk's office of the United States District Court for the Northern District of California, wherein Lee How Ping is appellant and you are appellee, to show cause, if any there be, why the decree rendered against the said appellant, as in the said order allowing appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

WITNESS, the Honorable HAROLD LOUDERBACK, United States District Judge for the Northern District of California, this 8th day of November, A. D. 1929.

HAROLD LOUDERBACK,  
United States District Judge.

Service of the within citation on appeal by copy admitted this 8 day of Nov., 1929.

GEO. J. HATFIELD,  
Attorney for \_\_\_\_\_.

[Endorsed]: Citation on Appeal. Filed Nov. 8, 1929. [34]

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[Endorsed]: No. 5983. United States Circuit Court of Appeals for the Ninth Circuit. Lee How Ping, Appellant, vs. John D. Nagle, Commissioner of Immigration, Port of San Francisco, Appellee. Transcript of Record. Upon Appeal from the United States District Court for the Northern District of California, Southern Division.

Filed November 13, 1929.

PAUL P. O'BRIEN,  
Clerk of the United States Circuit Court of Appeals  
for the Ninth Circuit.